



City of Carmel

Carmel Advisory Board of Zoning Appeals Regular Meeting Monday, July 26, 2004

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 7:00 PM on Monday, July 26, 2004 in the Council Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Leo Dierckman, James Hawkins, Madeleine Torres and Charles Weinkauf, thereby establishing a quorum. Mrs. Plavchak was absent. Jon Dobosiewicz, Angie Butler and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mrs. Torres moved to approve the minutes as submitted from the June 28, 2004 meeting. The motion was seconded by Mr. Hawkins and **APPROVED 4-0.**

Mr. Dobosiewicz gave the Department Report. He requested that **Item 1d Docket Nos. 04060012, 04060013 and 04060019** be placed on this agenda from the Hearing Officer agenda. Also, the notice on these items was two days late. The Board would need to suspend the rules to hear the items. He requested **Item 1g, Proposed Amendment** be reordered on the agenda and placed at the end of the regular business.

Mr. Molitor gave the Legal Report. He recommended an Executive Session before the Special BZA meeting on Wednesday, August 11, 2004, in order to be updated on the pending litigation. He suggested the Executive Session be held at 6:00 PM on August 11, 2004. The Board agreed to this date and time.

Mr. Molitor recommended one motion to cover the addition of the item to the agenda, the reordering of the agenda and suspension of the rules.

Mr. Dierckman moved to suspend the rules for the purpose of adding agenda **Item 1d**, allow that agenda item to be heard in lieu of the two-day late notice, and to move **Item 1g, Proposed Amendment** to the end of the regular Public Hearing portion of the meeting. The motion was seconded by Mrs. Torres and **APPROVED 4-0.**

H. Public Hearing.

1h. ~~WITHDRAWN: Charter One Bank @ Kroger~~

~~The applicant seeks the following development standards variance:~~

~~**Docket No. 04050025 V** Chapter 25.07.02-08(b) number of signs~~

~~The site is located at 1217 S Range Line Rd. The site is zoned B-8/Business.~~

~~Filed by Erica Brenner of SignArt, Inc for Charter One Bank.~~

2-3h. Carmel Lutheran Missouri Synod Church - Expansion

The applicant seeks special use amendment and development standards variance approval for a church expansion, located at 4850 East 131st Street.

Docket No. 04060002 SUA Chapter 5.02.A special use
Docket No. 04060003 V Chapter 5.04.03.F lot coverage
The site is zoned S-1/Residence – Low Density.
Filed by Larry Kemper of Nelson & Frankenberger.

Present for the Petitioner: Larry Kemper, Nelson & Frankenberger, 3105 E. 98th Street, Carmel. Also present were Pastor Luther Brunette and Shirley Bain from Carmel Lutheran, Jamie Shinneman & Shaun Ryan of Weihe Engineers and Mike Engledow, architect, of Schmidt & Associates. He gave a brief description of the history of the church and this real estate, the existing condition of the real estate, the proposed addition to the church and the hardship justifying the request. The proposed site plan was shown. The special use amendment would allow the construction of a two-story addition to the church on the northwest corner of the real estate and also a two-story addition in the southeast corner of the real estate. One of the existing entrances off 131st Street will be relocated further east. The entrance off Gray Road will be maintained in its current location. The addition on the northwest corner will be used primarily for classrooms and administrative office space. The addition on the southeast corner will be used for a contemporary worship center, a nursery and also some classrooms. The existing church consists of approximately 47,000 square feet. The addition on the northwest corner will consist of approximately 16,700 square feet. The addition on the southeast corner will consist of approximately 22,000 square feet. An artist's rendering of the church following the proposed additions was shown. The overall design and building materials are consistent with the existing church so that they will blend in nicely. The plans as presented require a variance for the lot coverage to exceed the maximum permitted under the ordinance. S-1 zoning is 35% maximum coverage. The lot is approximately 10 acres in size and the existing building footprint covers 10.8% and the existing pavement covers 37.9%. The proposed additions would increase the percent of coverage by the building to 16.1% and the pavement coverage to 47.7%. The expansion is primarily in the areas that are presently parking areas. The parking areas will be expanded to the eastern boundary of the real estate. The correct number of parking spaces will be 341. A minimum of 287 parking spaces is required under the ordinance. Due to the growth of the church, the contemporary life worship center is needed as a separate sanctuary and needs to be constructed to provide a feel normally associated with a sanctuary. Its current location is in the gymnasium. Because of the rapid growth of the congregation, current parking is inadequate. During the course of this process, two neighborhood meetings were held to gather input. Their primary concern was the condition of the Scotch pine trees that are located along the northern and eastern boundary of the real estate. The existing Scotch pines are approximately 30 years old and are nearing the end of their life span. Many have died and the rest are in the process of dying. The surrounding neighbors have requested removal of all of the Scotch pines. In their place they have requested a two-foot landscape berm and new landscaping which is at the level D buffering requirement under the ordinance. The only deviation from the level D is that instead of the ornamental trees and deciduous trees called for under the ordinance, the neighbors are requesting those be replaced by evergreens. Subsequent to the meetings, the church met with the Department and the Urban Forester. At that meeting the Urban Forester expressed concern that the neighbors would be disappointed with the two-foot buffer and new, smaller evergreens. The Urban Forester suggested an arborist inspect the existing trees and 50% of the Scotch pines be replaced with the level D buffering. There are now two landscaping options. Option A states 100% removal and Option B states 50%. The church prefers Option A, but does respect the opinion of the Urban Forester.

Remonstrance:

Greg Gorski, resident on the northeast corner of the church property. At one time there was nothing but fields, but now it is becoming a giant parking lot. The trees have not been maintained. He would like a

five-foot berm, but was told the maximum could be two feet. He was told the current retention pond would be one like the one located at the church across the street. It is a lake with a fountain to keep the water from becoming stagnant. The Carmel Lutheran retention pond is a ditch that after it rains remains muddy with stagnant water for days and days. Please do not permit this to happen.

Bob Huser, resident on the northeast corner of the church property. He does not desire to have a parking lot in his backyard. It will be less than 60 feet from the backside of his house. He shared pictures of the tree line. If it were approved, he would prefer Option A. The reason for the berm is threefold. First, drainage runs to that corner and their property is approximately four to five feet lower than the church property. Water runs off the property and down into the drainage ditch, causing a 12 to 15 foot river in his back yard. As a result, it takes three to five days to dry out, leaving damp property and causing mosquitoes. Secondly, the berm would give a little privacy and third the trees would give a little more privacy from the church lighting. If only 50% of the trees are removed, they will have more dead trees each year.

Glenn Keller, 4809 Essex Court, resident on the north boundary. He supported what the others said. His additional concern is the use of the second story for offices. It will be more or less occupied during business hours when there will potentially be people at home. So there will be less privacy because the second story will be looking down on the neighbors. He would like to see the trees removed. Some are dead and if they came down they could cause potential harm to people in the yards.

Hal Walters, 4950 Tudor Place, on the lower lake in Brookshire Pines. He and his neighbors were not aware of any meetings until a couple days ago. He would like to know how people were chosen and notified. He wondered if there had been any dialogue with the homeowners associations. In the last year's rains, Brookshire Lake has gone out of its bounds. The City has enlarged the culvert going underneath 131st Street at the southeast corner of the church property to alleviate flooding problems on the properties on the south side of 131st Street. Late last summer there were several houses that had water within inches of the top of their basement walls. In 1997 variances were granted for size, height, ground coverage, etc. Now they are asking for another variance. He did not receive notice when the church created their latest parking lot. When it was put in, there was no protection for sludge drainage. During big rains, it silted-in the upper end of their lake. They spent three days running around town trying to get the church to get to the contractor to put up sieves to stop the drainage into their lake. They didn't get any mediation out of it. They did not get their lake put back to its original position. They got a silted-in upper arm of the lake. He believes every organization should have the ability and the right to do with their property whatever they want, as long as it does not negatively affect the community. This has a negative impact on the immediate community. He felt the sign announcing tonight's meeting was inconveniently placed. He felt the church needs a significant retention pond.

Jim Mally, 4960 Limberlost Trace, across the street on the south side of 131st Street. He was not aware of this project until seeing the sign this morning. He did not know of any neighborhood meetings. He did not understand who received the notices. He is concerned that the church seems to overwhelm the neighborhoods. He does not know how the lighting will affect the neighborhoods. The retention pond is a mud hole that has never held water. Mohawk Crossing, on the south side of 131st Street, seems to have been turned into a retention pond and the City is aware of the problems. In the recent large rainstorm, Tarkington Commons had four feet of water covering the mailboxes. The City Engineer is aware of it. Other properties were covered with as much as two feet of water for a day and a half. If this project adds anything to the 131st Street culvert burden, they will have a very serious problem. The City has not addressed these water problems. For the City to approve this without looking at the total

picture seems to be very wrong. There were a couple of assumptions that were made in the proposal that current parking is inadequate and will remain inadequate. How was that determined or decided? He hasn't notice any people walking across Gray Road to get to the church. Has there been a traffic study? How will the 131st Street entrance affect Harrison Drive traffic? They do not have a homeowners association in Mohawk Crossing to be represented at any meetings. The City Engineer has come on record to say that this is not a problem and won't be a problem. He felt the Board should address the neighborhoods' concerns.

Mr. Molitor stated that the petitioner is required to notice only adjoining and abutting property owners from the records on file in the office of the Hamilton County Auditor. The petitioner is not responsible for changes that are not reflected in the Auditor's files. The rest of the public receives notice by the notice published in the newspaper and the sign posted on the property.

Rebuttal:

Mr. Kemper stated that they did notify the adjoining and abutting property owners per the Auditor's records. For the neighborhood meetings, they primarily notified the adjoining neighbors to the north and the east. That is why some of the remonstrators did not receive notice. Regarding the lot coverage issue, the ordinance states 35% in S-1 as maximum. It is really more intended to apply to residences and not special use as a church. Schools, day nurseries, clinics or medical health centers would also have issues with the 35% coverage requirement. He did not have specific numbers, but listed other churches in the area that appear to exceed the 35% maximum coverage. They believe the expanded parking lot will provide a benefit for the drainage for the neighbors. This site does gradually slope to the east. With the installation of the parking lot in the area, curb and landscaping berm, it will aid in keeping the surface water from draining to the east and funnel that water to the onsite detention. The landscaping berm will benefit the neighbors to the east and to the north from the automobile lights and church lights. There will not be a lot of use of this site after hours. They have agreed to pull the 30-foot light poles that are currently in place and replace them with 20-foot light poles. Along the perimeter of the real estate, the church has agreed to install lights with timers so they will turn off at 11 o'clock each evening. There will not be any light spillage outside the perimeter of this real estate. He had mis-spoke previously regarding the 131st Street entrances. The west entrance off 131st Street will be closed and the present eastern 131st Street entrance will be expanded. The church would prefer the 100% removal, Option A, for the landscaping berm.

Jamie Shinneman, Weihe Engineers, discussed the drainage issues. The drainage detention pond that remains wet for days is mowed and maintained except for the cattails growing where the drain pipe is located. The implementation of the new parking lot and the berm, in all practical purposes, will eliminate the drainage from running to the east and divert it to the detention pond. The pond is going to be enlarged. The bottom will be reshaped in order to create more volume, as well as a berm around the top to help raise the volume to handle the additional runoff. The drainage calculations were provided from Carmel Engineering from the last expansion in 1997. There is a certain amount of water that is allowed to leave the site. What is proposed for this site is approximately half of what is allowed. The drainage from this pond is intended to stay on the north side of 131st Street and go through Brookshire Lakes and not south to Mohawk Crossing.

Discussion followed regarding the location and size of the dry detention pond, the percentage of land coverage by the building and pavement, and the total number of parking spaces.

Mr. Dobosiewicz gave the Department Report. The Urban Forester and the Department recommend Option B of the landscaping plan, which would remove only 50% of the Scotch pines. However, the

Department would defer to the Board if Option A were approved. The expansion of the parking lot and the berm takes all the water that is on the church's property and directs it to the storm water basin as opposed to water being allowed to flow to the east within the existing shallow swale. The Department would like to add the condition of the 11:00 PM timer switch on the perimeter lights and house side shields. The Department would also like to see a commitment from the petitioner to dedicate right-of-way pursuant to the thoroughfare plan. With regard to the parking lot and the lot coverage, the petitioner is correct in their analysis of other locations throughout the community. Within the last 18-24 months the Department has looked at the 35% standard and deemed it is an appropriate criterion for special uses by churches and schools. The Department is in favor of this request. The petitioner is providing the required 25 feet buffer.

Discussion followed regarding a redesign of the site that could be more positive and favorable for the neighbors. Another neighborhood meeting was suggested to work out a solution for landscaping and drainage.

Mr. Kemper voluntarily agreed to table **Carmel Lutheran Missouri Synod Church – Expansion, Docket Nos. 04060002 SUA and 04060003 V** to the August 23, 2004 meeting.

Mr. Weinkauff stated that the Public Hearing would be open at the August 23 meeting for the petitioner to explain what they felt had been accomplished and the opportunity for remonstrators to speak.

4h. Carmel/Clay Schools - Woodbrook Elementary

The applicant seeks the following special use amendment approval:

Docket No. 04060018 SUA Chapter 5.02 special uses

The site is located at 4311 E 116th Street and is zoned S-1/Residence - Low Density.

Filed by Jeffrey Maidlow for Carmel/Clay Schools.

Present for the Petitioner: Jeff Maidlow, Assistant Director of Facilities for Carmel Clay Schools. The school would like to move a number of the pine trees along 116th Street along Woodbrook Elementary because the trees are growing together causing a total blockage of view on the north side of the property. The trees would be relocated into groups that are more appropriate for aesthetics and the safety of the students. There are 147 trees. Several are dead and need to be removed. Others will be relocated to other school properties.

Public in favor:

John Kerr, 13595 Kensington Place, Carmel. He is Chairman of the Board of the First Church of Christ Scientist, Carmel, which is adjacent to the school. His main concern with the school is the new addition. The new large stone gravel driveway has covered the beehive drain, which drains the surface water of the church and the school. The stone also covered the shutoff for the water for the church. He realized this was not germane to the relocation of trees, but wanted to speak to the school about the situation.

Public in opposition:

Carolyn Kuhls Taylor, 11412 Dona Drive, asked about where the trees would be relocated. She felt a barrier should be maintained around the school to protect the children from wandering off the property.

Rebuttal:

Mr. Maidlow stated that 32 trees would be left at Woodbrook. Ten will be placed in a nursery setting behind Carmel High School. Others will be used at school locations to replace dead trees, enhance aesthetics, and enhance the Hartman baseball field and transportation facility. A site plan was shown.

Mr. Dobosiewicz gave the Department Report. The Department recommends favorable consideration.

The Public Hearing was closed.

Mr. Dierckman moved to approve **Docket No. 04060018 SUA Carmel/Clay Schools - Woodbrook Elementary**. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**.

1d. Mayflower Park, Blk 6, Lot 2 - Ed Martin

The applicant seeks the following development standards variances:

Docket No. 04060012 V Chapter 25.7.02-8(c) east wall sign area

Docket No. 04060013 V Chapter 25.7.02-8 (b) number of signs

~~**Docket No. 04060019 V** Chapter 25.7.02-8 (b) sign not facing frontage~~

WITHDRAWN

The site is located southwest of 99th St and Michigan Rd. The site is zoned I-1/Industrial within the US 421 Overlay Zone.

Filed by John Bennett of A/E Technologies for Ed Martin Pontiac GMC.

Present for the Petitioner: John Bennett, A/E Technologies. Representations of the signs were shown. The site was originally designed for a Chrysler automotive center. Ed Martin automotive group purchased the facility. They tried to make the signage fit into the zoning requirements. The Special Study committee felt it was a static and unbalanced design for the signage. The variances will allow the signs to be more architecturally appealing. A larger "Service" sign will allow the public to more easily locate the service entrance.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mr. Dobosiewicz gave the Department Report. The Department is recommending favorable consideration. The Department does not feel 13 square feet is necessary for this sign. The Department would prefer six square feet.

Discussion followed regarding the size of all the signs, the "Service" sign and scale to the building.

The Public Hearing for **Docket No. 04060012 V** was closed.

Mr. Dierckman moved to approve **Docket No. 04060012 V Mayflower Park, Blk 6, Lot 2 - Ed Martin**. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**.

The Public Hearing for **Docket No. 04060013 V** was closed.

Mr. Dierckman moved to approve with condition that the "Service" sign be 9 square feet, **Docket No. 04060013 V Mayflower Park, Blk 6, Lot 2 - Ed Martin**. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**.

**1g. Proposed amendment to Article IX (BZA Rules of Procedure) and
Section 30.08: Alternate Procedure (Hearing Officer)**

Mr. Molitor led the discussion of the three proposed amendments to the BZA Rules of Procedure. For the first amendment, the Plan Commission did approve the expansion of the procedure. It will require final approval by the City Council for the Zoning Ordinance Amendment. There is no urgency on any of the amendments at this time. It was decided to consider the amendments at the next meeting on August 23, 2004.

I. Old Business:

There was no Old Business.

J. New Business:

There was no New Business.

K. Adjourn.

Mr. Dierckman moved to adjourn. The motion was seconded by Mr. Hawkins and **APPROVED 4-0.**

The meeting was adjourned at 8:55 PM.

Charles Weinkauff, President

Connie Tingley, Secretary